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BEFORE THE CORPORATION COMMISSION
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Commissioners

GARY PIERCE – Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
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2012 FEB -1 P 4: 44

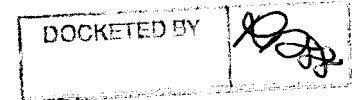
AZ CORP COMMISSION Arizona Corporation Commission
DOCKET CONTROL DOCKETED

FEB - 7 2012

JOHN E. DOUGHERTY
COMPLAINANT

V.

MONTEZUMA RIMROCK WATER
COMPANY, LLC.



Docket No. W-04254A-11-0323

MOTION TO COMPEL
DISCOVERY

BY THE COMPLAINANT:

On January 4, 2012, Complainant submitted his Third Set of Data Requests to Montezuma Rimrock. (Exhibit 1).

On January 11, 2012, Complainant and Montezuma Rimrock Counsel had a personal conversation concerning the Data Requests. Montezuma Rimrock Counsel stated he was seeking to withdraw from the case and said the Data Request had been sent directly to Ms. Patricia Olsen, MRWC owner.

Apparently, Montezuma Rimrock Counsel was not aware that the Administrative Law Judge in this docket had denied his motion to withdraw on the same day. I informed Montezuma Rimrock Counsel that his motion to withdraw had been denied. Montezuma Rimrock Counsel asked Complainant to contact him in a week to discuss the issue.

On January 18, 2012, Complainant sent Counsel an email requesting a definitive reply concerning the Third Data Request.

On January 19, 2012, Montezuma Rimrock Counsel sent Complainant an email stating the Company either did not have the records requested or would not comply with the request. On the same date, Complainant sent an email to Montezuma Rimrock Counsel agreeing to accept Counsel's representation that no records exist for two of the

categories requested and rejected Counsel's assertions that four other categories of records should not be produced. (Exhibit 2)

As of this date, Montezuma Rimrock Counsel has not replied to Complainant's January 19 email.

The Commission has repeatedly ordered the Company to comply with Data Requests. The Commission's October 12 Procedural Order in this Docket clearly states:

"Montezuma Rimrock will be required to provide discovery of all its records necessary to give complete and authentic information as to its properties and operations if it has not already done so."

Complainant is seeking records that provide "complete and authentic information" as to the Company's "properties and operations".

Complaint Moves the Commission to Order Montezuma Rimrock to immediately produce the following records in response to the Third Data Request:

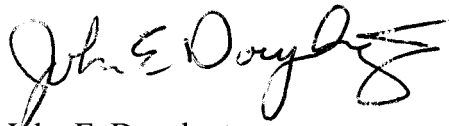
1.38—MRWC Billing Statements: Please provide copies of MRWC's monthly billing statements to all customers for November 2011. Please include all records related to pro-rated refunds to customers for meter deposits.

1.39—MRWC Corporate Records: All minutes, resolutions, documentation of annual meetings and all other corporate records of Montezuma Rimrock Water Company, LLC from January 1, 2005 through January 4, 2012.

1.42—American Express Credit Card: Monthly credit card statements for the account ending in 5-71003 from January 1, 2011 through December 30, 2011.

1.43—Bank Statements: The Company's bank statements for its five business accounts at National Bank of Arizona for the months of October, November and December 2011.

Dated this 7th Day of February, 2012

A handwritten signature in black ink, appearing to read "John E. Dougherty", with a stylized flourish at the end.

John E. Dougherty
Complainant

Copies of the foregoing mailed
This 7th day of February, 2012 to:

Douglas C. Fitzpatrick
LAW OFFICE OF DOUGLAS C. FITZPATRICK
49 Bell Rock Plaza
Sedona, AZ 86351

Patricia D. Olsen, Manager
MONTEZUMA RIMROCK WATER COMPANY, LLC
P.O. Box 10
Rimrock, AZ 86335

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**JOHN E. DOUGHERTY
COMPLAINANT**

V.

**MONTEZUMA RIMROCK WATER
COMPANY, LLC.**

**Docket No. W-04254A-11-0323
Certificate of Complainant In
Support of Discovery Motion**

BY THE COMPLAINANT

Undersigned Complainant certifies as follows pursuant to ARCP 37[a][2][C]:
Complainant personally communicated with Douglas Fitzpatrick, counsel for Montezuma Rimrock Water Company, concerning the issues raised by the discovery motion filed herewith. On January 11, 2012, Complainant had a personal conversation that failed to resolve the Discovery issues. On January 18 and 19, Complainant and Counsel exchanged emails appended hereto that summarize the Complainant's position with unresolved discovery requests. The Court's intervention is necessary.

Dated this 7th Day of February, 2012



John E. Dougherty
Complainant

Copies of the foregoing mailed
This 7th day of February, 2012 to:

Douglas C. Fitzpatrick
LAW OFFICE OF DOUGLAS C. FITZPATRICK
49 Bell Rock Plaza
Sedona, AZ 86351

Patricia D. Olsen, Manager
MONTEZUMA RIMROCK WATER COMPANY, LLC
P.O. Box 10
Rimrock, AZ 86335

**MONTEZUMA RIMROCK WATER COMPANY
DOCKET NO. W-4254A-11-323**

**COMPLAINANT JOHN E. DOUGHERTY'S
THIRD SET OF DATA REQUESTS**

1.38—MRWC Billing Statements: Please provide copies of MRWC's monthly billing statements to all customers for November 2011. Please include all records related to pro-rated refunds to customers for meter deposits.

1.39—MRWC Corporate Records: All minutes, resolutions, documentation of annual meetings and all other corporate records of Montezuma Rimrock Water Company, LLC from January 1, 2005 through January 4, 2012.

1.40—GEcom Lease: All documentation, including bank records, income tax returns, and the company's and/or Ms. Patricia Olsen's application submitted to GEcom and/or Odyssey Equipment Financing Company to lease arsenic treatment equipment and auxiliary facilities.

1.41—GEcom/Odyssey Emails: All emails and written communications between MRWC and GEcom/Odyssey from November 21, 2011 through January 4, 2012.

1.42—American Express Credit Card: Monthly credit card statements for the account ending in 5-71003 from January 1, 2011 through December 30, 2011.

1.43—Bank Statements: The Company's bank statements for its five business accounts at National Bank of Arizona for the months of October, November and December 2011.



John Dougherty <jd.investigativemedia@gmail.com>

Data Request

2 messages

John Dougherty <jd.investigativemedia@gmail.com>

Wed, Jan 18, 2012 at 12:41 PM

To: Doug Fitzpatrick <fitzlaw@sedona.net>

Doug, This is a follow up email from our January 11 conversation concerning my January 4, 2012 Data Request to Montezuma Rimrock Water Company.

You stated on Jan. 11 that you had already forwarded the Data Request to Ms. Olsen and expected to be removed from the case.

However, the ALJ refused your motion to withdraw.

During our Jan. 11 conversation you said that I should contact you upon my return from a trip back East.

I am now back in Arizona and request your formal response on whether and when your client will produce the records requested on January 4, 2011.

Please call me at the soonest possible time to confirm receipt of this email and to provide a definitive response to my Data Request. If the Company refuses to comply with my request, I will be forced to file a Motion to Compel.

Thanks,

John Dougherty
InvestigativeMedia.com
602-710-4089

John Dougherty <jd.investigativemedia@gmail.com>

Thu, Jan 19, 2012 at 4:55 PM

To: Doug Fitzpatrick <fitzlaw@sedona.net>

Doug,

I called your office at 4:07 p.m. and left a message with your secretary to call me concerning my Data Request for MRWC.

If the Company does not intend to produce the records, please advise.

Thanks,

John

[Quoted text hidden]

--

John Dougherty
InvestigativeMedia.com



John Dougherty <jd.investigativemedia@gmail.com>

Response to Data Requests

2 messages

Doug Fitzpatrick <fitzlaw@sedona.net>

Thu, Jan 19, 2012 at 5:50 PM

To: John Dougherty <jd.investigativemedia@gmail.com>

Cc: patsy@montezumawater.com

1.38 MRWC Billing Statements: as we've previously communicated, "billing statements" are not preserved.

1.39 MRWC Corporate records: such request does not seek the production of evidence that is discoverable.

1.40 GEcom Lease: there are no written submissions to GEcom.

1.41 GEcom/Odyssey Emails: there are no e-mails between the water company and GEcom other than what have been provided.

1.42 American Express credit card: the American Express credit cards were among the records that have been made available to you.

1.43 Bank statements: the bank statements requested do not relate in time to the complaint which you have filed. Will you be filing data requests every month for bank statements as they are generated until this matter is resolved?

Doug Fitzpatrick

Attorney for MRWC

John Dougherty <jd.investigativemedia@gmail.com>

Thu, Jan 19, 2012 at 6:25 PM

To: Doug Fitzpatrick <fitzlaw@sedona.net>

Doug,

1.38-- I'm asking for billing statements from Nov. 2011, not historic billing records. The company must have a record of such statements. Otherwise, how does it know who is paying what amount if there is no record? I do not accept this explanation as plausible or believable.

1.39--MRWC Corporate Records: These records are directly related to the legitimacy of MRWC's corporate status and are discoverable. The complaint alleges the Company is mismanaged and its Certificate of Need and Necessity should be revoked. The Company's corporate records are directly related to Company management.

1.40--I accept your assertion.

1.41--I accept your assertion.

1.42--The American Express billing records were NOT in the records that were provided to me in the past. That is why I'm seeking those records at this date.

1.43--The Company's ongoing bank statements are directly related to the Complaint, which alleges the Company is mismanaged and its Certificate of Need and Necessity should be revoked. I intend to seek regular updates of the Company's monthly bank statements until the formal hearing in this case is held.

John Dougherty
Complainant

[Quoted text hidden]

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John Dougherty
InvestigativeMedia.com
602-710-4089
